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7 UNITED STATES BANKRUPTCY COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9 In re

10 CANDIE J. NELSON,

No. 05-10660

11 Debtor(s).  
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13 Memorandum re Dismissal  
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15 Debtor Candie Nelson has proposed a Chapter 13 plan providing for payments of \$50 per month  
16 for 36 months. Asked for an offer of proof as to what would justify such small payments for the  
17 minimum amount of time, her only response was that it was all she could afford. Based on this  
18 representation, confirmation must be denied and this case must be dismissed.

19 The court has almost never confirmed Chapter 13 plans calling for such minuscule payments,  
20 even absent other negative considerations. In this case, there are two negative considerations. First, her  
21 debts are so high<sup>1</sup> that dividing \$1800 amongst them makes their dividend microscopic. Secondly, and  
22 most importantly, Nelson's discharge was denied in a prior Chapter 7 case filed less than three years  
23 ago; all of the debts in this case were debts when that case was filed.


24 Section 523(a)(10) of the Bankruptcy Code provides that a debt is nondischargeable if it was  
25 scheduled or could have been scheduled in a prior case in which the debtor was denied a discharge.  
26 Thus, all of Nelson's debts are nondischargeable.

<sup>1</sup>Nelson's eligibility to be a Chapter 13 debtor is subject to objection by the trustee, who argues  
that she is over the debt limits.

1 Factors to be considered in determining if a Chapter 13 plan should be confirmed include the  
2 amount of payments, the percentage of repayment to unsecured creditors, and whether any of the debts  
3 are nondischargeable. *In re Warren*, 89 B.R. 87, 89 (9th Cir. BAP 1988). In this case, since all of the  
4 debts are nondischargeable and both the payments and the dividend are next to nothing, the plan cannot  
5 be confirmed.

6 Dated: June 29, 2005

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Alan Jaroslovsky  
U.S. Bankruptcy Judge